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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

MAY 1 1998

FEDERAL COMMUNICATIONS COMMISSION
DEPT. OF COMMERCE

Competitive Telecommunications Association,)
Florida Competitive Carriers Association,)
and Southeastern Competitive Carriers Association)
Petition On Defining Certain Incumbent LEC Affiliates)
As Successors, Assigns, or Comparable Carriers)
Under Section 251(h) of the Communications Act)

CC Docket No. 98-39

COMMENTS
OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association ("NTCA"), pursuant to the Commission's Public Notice of April 1, 1998, DA 98-627, files these comments in response to the Petition for Declaratory Ruling or for Rulemaking of the Competitive Telecommunications Association, *et al.* ("Comptel"). NTCA is a national association of approximately 500 local exchange carriers ("LECs"). Comptel proposes that the Commission either declare or establish rules which would subject affiliates of incumbent local exchange carriers ("ILECS") to Section 251(c) of the Communications Act, where the affiliate operates under the same or similar brand name within the ILECS's service territory. NTCA opposes the petition for the reasons set forth below.

DISCUSSION

Comptel's complaints regarding BellSouth should not be the basis for regulation of all ILECS. The facts alleged are specific to BellSouth. Comptel alleges that BellSouth has established a subsidiary to provide local exchange service both within and without its preexisting service territory and that such subsidiary is, in effect, an *alter ego* of BellSouth which is designed

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to provide the same services with the same resources as the parent, while avoiding regulation, including the requirements of Section 251(c) of the Communications Act.¹ NTCA has no knowledge of the accuracy of these allegations. Comptel also alleges, however, that similar actions are being taken by "a number of ILECS," but does not provide any significant details regarding other carriers. In any event, Comptel makes no allegations regarding the small and rural telephone companies constituting NTCA's membership. Comptel nevertheless asks the Commission to impose regulation on the entire class of carriers as a result of actions it ascribes with particularity to only one.

In the pro-competitive environment created by the 1996 Act, the Commission should be looking for means to reduce, rather than expand regulation.² This objective holds especially true for small telephone companies for which ever expanding regulatory requirements are especially onerous.³ To the extent corrective action is needed in any individual case, the better way to proceed is through the Section 208 complaint process. The Petition provides no basis to extend regulation to carriers against whom no allegations have been made, much less proven.

¹ These allegations are said to be based on proceedings before state commissions. Direct testimony in one state is attached. However, there is no affidavit made to this commission as to the accuracy of the facts alleged.

²As Chairman Kennard recently said: "...[I]f I'm a cop I don't think the answer is for me to stop every single car as it pulls on to the highway and discuss whether they are going to drive on the shoulder. That slows everybody down even though most people aren't going to cheat." Remarks to USTA, April 27, 1998.

³A rebuttable presumption is as burdensome as an absolute rule.

CONCLUSION

For the reasons set forth above, the Petition of Comptel, *et al.* should be denied.

Respectfully submitted

By: 
L. Marie Guillory
(202) 298-2359


Its Attorney

2626 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

May 1, 1998

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Comments of the National Telephone Cooperative Association in CC Docket No. 98-39 was served on this 1st day of May 1998, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:


Gail C. Malloy

Chairman William E. Kennard
Federal Communications Commission
1919 M Street, N.W., Room 814-0101
Washington, D.C. 20554

Commissioner Gloria Tristani
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

Commissioner Michael Powell
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W., Room 832-0104
Washington, D.C. 20554

Commissioner Harold W. Furchtgott-Roth
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

International Transcription Service
1231 20th Street, N.W.
Washington, D.C. 20036

Janice M. Myles
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 544
Washington, D.C. 20554

Genevieve Morelli
Executive Vice-President
and General Counsel
Competitive Telecommunications Association
1900 M Street, N.W., Suite 800
Washington, D.C. 20036

David L. Sieradzki, Esq.
Jennifer A. Purvis, Esq.
Hogan & Hartson, L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004